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CROSS-CUTTING ISSUES NEWS
OCTOBER 19, 2012

HIGHLIGHTS

Climate Change

EU Carbon Trading System Cut Emissions

At Minimal Cost to Economy, Study Says

The European Union has made significant cuts in its greenhouse gas emissions using a cap-and-trade approach while keeping the cost low, the Environmental Defense Fund said in a report released Oct. 17. ...

General Policy

Secretary Clinton Calls for Active U.S. Role

To Address Energy, Environmental Challenges

Secretary of State Hillary Clinton said Oct. 18 the United States should be actively involved in energy and environmental issues around the world to advance economic development and political stability....

Latest Blogs

ACUS Draws Criticism

The Administrative Conference of the United States (ACUS), an independent federal agency devoted to improving the administrative process, is drawing strong criticism from health and ...

API Queries EPA Fracking Study Methods

The American Petroleum Institute (API) is reiterating criticism of EPA's draft report linking Wyoming groundwater contamination to hydraulic fracturing to raise questions about the methodology . . .

EPA:

Inhofe says Obama plans post-election 'regulatory onslaught'

Emily Yehle, E&E reporter

Published: Thursday, October 18, 2012

Republicans on the Senate Environment and Public Works Committee released a report today that accuses President Obama of delaying environmental regulations until after the presidential election to avoid a backlash from voters.

The report rehashes about a dozen U.S. EPA rules that Republicans love to hate, including greenhouse gas regulations for power plants and the ozone rule that Obama delayed last year. All would "spell doom" for jobs, according to Oklahoma Sen. James Inhofe, the panel's top Republican.

"President Obama has spent the past year punting on a slew of job-killing EPA regulations that will destroy millions of American jobs and cause energy prices to skyrocket even more," Inhofe said in a statement. "From greenhouse gas regulations to water guidance to the tightening of the ozone standard, the Obama-EPA has delayed the implementation of rule after rule because they don't want all those pink slips and price spikes to hit until after the election."

It's a somewhat new angle from Republicans, who have spent the past few years criticizing Obama for issuing too many expensive regulations that they say kill jobs. Environmental groups, on the other hand, have accused the White House of holding up important rules in the Office of Information and Regulatory Affairs.

But in the report, Republicans characterize the Obama administration as a vehicle for the "radical environmental left," with EPA officials waiting to fully pursue their anti-fossil-fuel agenda until after the election. Among the report's list of upcoming regulations, the agency's boiler MACT makes the cut, as does the federal government's efforts to regulate hydraulic fracturing.

Such rules would create a "regulatory onslaught that will drive up energy prices, destroy millions of jobs, and further weaken the economy," the report states.

An EPA spokeswoman declined to comment.

URANIUM:

Lawmakers urge new plan for Navajo cleanups

Manuel Quinones, E&E reporter

Published: Thursday, October 18, 2012

A group of Democratic House lawmakers asked several federal agencies today to extend their coordinated effort aimed at

cleaning up the legacy of uranium mining in the Navajo Nation.

The current five year plan, developed after pressure from Congress, is scheduled to wrap up by the end of this year. While major mine sites have been cleaned up, hundreds remain.

"Although the last operating mines on the Navajo Nation closed in the mid-1980s, mining activities on the Reservation left behind hundreds of abandoned uranium mines, inactive milling sites, former dump sites, contaminated groundwater, and structures that contain elevated levels of radiation," wrote Democratic Reps. Ed Markey of Massachusetts and Henry Waxman of California, among others.

The five year plan marked the first time different federal agencies, including U.S. EPA and the Bureau of Indian Affairs, significantly pooled resources to reclaim the old mine sites, many of them the product of Cold War-era mining for nuclear weapons (Greenwire, Dec. 13, 2011). Obama administration officials have indicated that an extension is likely.

In August, a similar array of lawmakers asked the Centers for Disease Control and Prevention for an update on an ongoing study dealing with the effects of pollution on the Navajo. Now, they're also asking the Government Accountability Office to audit the cleanup effort.

They wrote that "due to widespread damage inflicted on Navajo Lands, a tremendous amount of work remains to be done. We believe that a second Five Year Plan will be necessary to continue this enormous task."

[Click here to read the lawmakers' letter.](#)

PUBLIC LANDS:

Tribes, landowners tussle over cultural designation

Published: Thursday, October 18, 2012

American Indians and ranchers in the Southwest are battling over whether an area surrounding New Mexico's Mount Taylor is sacred or private property.

The New Mexico Supreme Court is deliberating on the case, which represents a growing number of disputes about how much sway tribes should have over land that they don't own but believe to be a part of their culture.

The state designated the area surrounding Mount Taylor, located about 80 miles west of Albuquerque, as a traditional cultural property in 2009. The mountain is considered sacred by tribes including the Navajo, Acoma Pueblo, Hopi, Zuni and Laguna.

"This goes deeper than religion," said Ann Berkley Rodgers, a lawyer for the Acoma Pueblo Tribe, which lives at the foot of Mount Taylor. "It's a whole question of identity."

But that triggered a lawsuit from landowners, who said the designation, which is for public lands, was too large for the state to inspect and maintain as a historic site. They are concerned the designation will force cultural reviews of development on nearby private land. And in this particular area, private groups are seeking permits to mine for uranium on federal land (Greenwire, Dec. 8, 2011).

A state district court ruled in favor of the landowners, but a state appeals court sent the case to the New Mexico Supreme Court. On the federal level, both the National Park Service and the Forest Service are working on federal guidelines to address land considered sacred by tribes (Ana Campoy, Wall Street Journal [subscription required], Oct. 17). -- JE

EPA:

Connaughton seen as early front-runner to head agency if Romney is elected

Jeremy P. Jacobs and Jean Chemnick, E&E reporters

Published: Thursday, October 18, 2012

Republican presidential nominee Mitt Romney has cast U.S. EPA as a menace to energy jobs in campaign stops across the country, and with the race now a tossup, speculation is mounting over whom he might tap to lead the agency if he defeats President Obama next month.

The former Massachusetts governor made no bones about his support for oil, coal and natural gas at Tuesday night's debate, charging his opponent with allowing EPA to persecute producers of fossil fuels while avoiding any discussion of air quality.

"I was in coal country," he said, in response to a question on gas prices. "People grabbed my arms and said, 'Please save my job.'"

The head of the EPA said, 'You can't build a coal plant. ... It's virtually impossible given our regulations.' When the president ran for office, he said if you build a coal plant, you can go ahead, but you'll go bankrupt. That's not the right course for America."

The prominence Romney has given EPA on the campaign trail has aroused interest in who he would pick to replace Lisa Jackson as administrator.

A President-elect Romney would likely look for Cabinet members who have experience in the government as well as management credentials in the private sector, according to sources with knowledge of the Romney transition team's thinking. The top-level spots may be more political, while deputies will likely have lengthy resumes within the government or their respective industries. Kenneth Green, a scholar at the American Enterprise Institute, said any new president hopes for "plug and play" Cabinet members who are already familiar with Washington, and who have the connections to quickly assemble a capable staff. Add to that the ability to gain Senate confirmation and "that makes for a short list," he said.

So far, most of the discussion among EPA observers has focused on two names: James Connaughton, who led the White House Council on Environmental Quality during George W. Bush's administration, and Jeff Holmstead, Bush's EPA air chief.

"I think there is likely to be a very strong bias toward people with immediate and direct experience," said Mike McKenna, a

Republican energy strategist. "That means a lot of names from the Bush administration are going to emerge."

Connaughton, now an executive at Baltimore-based Constellation Energy, appears to be the front-runner and is well-liked in most Republican circles. He has been advising the Romney campaign on environmental issues and is considered extremely qualified for the job. Those who have worked with him in the past characterized him as a wonk who is "head and shoulders above" many in the industry when it comes to environmental policy.

"He'd be a great pick," said Frank Maisano of the legal and lobbying firm Bracewell & Giuliani, and "he's a strong supporter of the Romney folks."

Connaughton declined to comment for this article.

He does, however, also have some baggage that could prove problematic in the confirmation process, particularly in satisfying the GOP's conservative tea party wing.

For example, Connaughton has defended his work to address climate change while at CEQ, which included efforts to facilitate the transfer of low-carbon technology between countries.

Green noted that Connaughton and his team were criticized by some conservatives for "being willing to go along with heavier-handed regulation than they had to."

Connaughton has also praised some aspects of Obama's approach to energy in the early days of the president's administration. "Overall, I am encouraged by the Obama administration's approach to energy policy," he said in an October 2009 interview with National Review. In particular, he agreed with EPA's stance that addressing climate change is best done through legislation, instead of regulation.

Since then, Democrats have failed in their push to pass a carbon dioxide cap-and-trade bill, and EPA has begun to promulgate greenhouse gas rules for high-emitting sectors beginning with power plants.

Connaughton has said he also favors a cap-and-trade system, noting that such a program has previously worked in reducing sulfur dioxide emissions that cause acid rain and nitrogen oxide emissions that cause smog. But he added that the legislation to create such a system should include cost consideration to assure policymakers the program won't get out of control (E&ENews PM, Nov. 16, 2011).

Such positions have already earned some criticism from climate change skeptics (Greenwire, May 22).

Additionally, Connaughton's current company has been vocal in its support of EPA's recent power plant air regulations, including its standards for mercury and other air toxics that Romney has criticized on the stump.

Romney has even endorsed Sen. James Inhofe's (R-Okla.) bid earlier this year to use the Congressional Review Act to kill the rule outright, something one longtime Washington observer said was an unusual move. Presidential candidates usually try to remain above the fray when it comes to these types of policy battles, the observer said.

McKenna said combining those elements could create hurdles for Connaughton.

"He'd have a lot of trouble getting confirmed," McKenna said, adding that Connaughton would be a "great" administrator. "He's been arguing for everything the Republican caucus hates."

"I think that the [Romney] campaign has been pretty upfront in saying what they really want is someone who can eliminate a lot of the regulatory burdens that the Obama administration has placed on people who want to build things," said the Washington observer, adding, "I don't see them going with someone like Christine Todd Whitman."

Whitman, Bush's first EPA administrator, was regarded as a moderate on climate and regulatory issues and has since criticized Republican use of anti-EPA rhetoric.

The apparent runner-up in the pre-election whisper polls is Holmstead, a Bush-era assistant EPA administrator for air and radiation.

Now a partner at Bracewell & Giuliani, Holmstead has represented coal-fired electric utilities and other industry clients that Romney has praised as job creators. He declined to comment for this article.

Other former Bush administration officials that have been mentioned include Ann Klee, a former EPA general counsel. Klee, who has since worked for General Electric Co., has also spent time at the Interior Department.

Observers also suggested that Rebecca Rosen, a current adviser to the Romney campaign on energy and environmental issues, will have a role either at EPA or in the White House. Some say she could be first in line for deputy assistant for energy and climate change, a post currently filled by Heather Zichal. Rosen formerly worked for Sen. Lisa Murkowski (R-Alaska) and has also worked at PFC Energy.

Poach from the states?

Some observers suggested Romney could turn to the states for an EPA chief, a move that would likely satisfy frequent critics of the agency and Washington bureaucracy.

Top contenders would include Kathleen Hartnett White, a former chairwoman of the Texas Commission on Environmental Quality. White is now director of the Armstrong Center for Energy and the Environment at the Texas Public Policy Foundation.

White has a long track record in Texas, including as an appointee to the Texas Water Development Board, and has been a frequent critic of EPA air regulations, including the Cross-State Air Pollution Rule (CSAPR) that Texas and other states successfully challenged in federal court.

Another option could be Joseph Kelliher, a Bush-era chairman of the Federal Energy Regulatory Commission who went on to Florida Power & Light Co.

The Washington observer also suggested that Romney could send a strong signal about the direction he wanted to take his EPA

in by nominating Texas Attorney General Greg Abbott (R), who has mounted court challenges against several EPA rules, including for ozone emissions.

But Bill Becker, executive director of the National Association of Clean Air Agencies, said there are some risks associated with picking an administrator that EPA's career staff will view as hostile to their work.

"If Mitt Romney were elected president, he might select an administrator who does not have a previous track record of suing EPA at every turn," Becker said, "or alienating the 10,000 staff who have worked at the agency for their entire careers."

Environmentalists and public health advocates are likely to find flaws in any Romney pick. Some even questioned why the job would be desirable.

"Would anyone," asked Frank O'Donnell of Clean Air Watch, "really want to head up EPA under Romney the way he has talked during this campaign?"

Democratic senators must assent

Besides wooing anti-regulatory Republicans, any Romney nominee must also get the nod from some Democratic senators in order to be confirmed, AEI's Green noted. And if Democrats wake up Nov. 7 to discover they have no prospect of moving environmental legislation in the new Congress, they will become that much more reluctant to approve a staunch opponent of environmental protection who might test the legal limits of deregulation, he said.

But Green said the tone of the campaign and a Romney victory might also persuade Senate Democrats that the American people are not nearly as interested in environmental safeguards as in economic development, encouraging them not to stage a huge fight over any EPA nominee.

"If he wins a significant victory running on a platform of saying 'I want oil, I want coal, I want natural gas, I want them now and I want them here,' and he doesn't discuss environmental protection or climate change, it's going to change the color by which his nominees are evaluated during confirmation, I would think," Green said.

Ultimately, Romney's pick may have little influence on EPA policy, argued Jerry Taylor of the libertarian Cato Institute. Taylor suggested that the White House typically sets the regulatory agenda and for all his bluster on EPA regulations, Romney would like to preside over a "status quo" EPA that "tackles issues that come down the pipe," since the agency was forced to issue most of its controversial regulations by court order.

"You can't roll those back unless Congress changes the law," Taylor said, referring to the mercury air standards.

Green sounded the same note. "Whoever's appointed administrator to the EPA comes in facing huge legislative and judicial constraints," he said. Rules are generally reviewed according to a certain schedule, with guidelines set by a panel of science experts. The administrator's discretion is limited.

"The law tends to drive the process," he said.

Which is why, Green said, Romney and his team might be showing some interest in a tax swap involving a carbon tax. EPA is on track to regulate carbon emissions from large sources anyway.

If a carbon tax is enacted, a future EPA administrator could decide that it satisfies EPA's obligations to limit carbon under the Clean Air Act.

"The carbon rules could be pulled back, but only in exchange for something else," Green said.

FOREST SERVICE:

Agency to take deeper look into controversial Utah coal lease

Manuel Quinones, E&E reporter

Published: Thursday, October 18, 2012

The Forest Service is conducting additional research into the leasing of more than 55 million tons of federal coal in central Utah amid environmental complaints.

The agency will complete a supplemental environmental impact statement for Arch Coal Inc.'s application to gain control of coal reserves under the Manti-La Sal and Fishlake national forests, the Forest Service said in this morning's Federal Register.

Earlier this year environmental groups, including the Center for Biological Diversity and the Grand Canyon Trust, cheered when the Forest Service withdrew consent for the Bureau of Land Management to proceed with leasing the so-called Greens Hollow tract.

Conservationists worry about the depletion of surface water resources and its impact on animals, including the sage grouse (E&ENews PM, April 4). They say power lines, traffic and gas vents are incompatible with protecting wildlife.

The Forest Service expects to complete the additional review by the end of this year.

OCEANS:

NMFS agrees to finalize plan to protect false killer whales from Hawaiian longliners

Laura Petersen, E&E reporter

Published: Thursday, October 18, 2012

Federal managers agreed to finalize a plan yesterday aimed at reducing deaths and injuries of false killer whales in Hawaiian longline fisheries as part of a legal settlement with environmentalists.

The Center for Biological Diversity and Turtle Island Restoration Network, represented by Earthjustice, sued the National Marine Fisheries Service in June to implement a "take-reduction plan" that had been developed in 2010 but not finalized by the December

2011 deadline.

The agency agreed to begin implementing the plan by Nov. 30. The settlement must still be approved by the U.S. District Court for the District of Hawaii.

"For more than two years, the Fisheries Service has had sitting on its shelf a plan to protect Hawaii's false killer whales that reflects the consensus of expert biologists, longline fishermen and conservation groups," said Brendan Cummings of the Center for Biological Diversity, who served on the team that developed the plan.

"With the fishery continuing to kill false killer whales at rates far beyond what they can sustain, it's long past time for the agency to get that plan off the shelf, put it into action and start saving whales."

Longline fisheries -- which string hooks across a large swath of ocean to catch tuna, mahi mahi and other fish -- also attract the whales. An average of 13 false killer whales near the Hawaiian Islands are killed by longlines each year -- nearly twice the sustainable level, NMFS says.

The lines have also contributed to a 9 percent decline in the pelagic population that lives within 76 nautical miles of the main Hawaiian islands each year since 1989. There are an estimated 150 whales remaining, and they are proposed to be listed as endangered under the Endangered Species Act.

Earlier this year, the Natural Resources Defense Council sued NMFS over its delay in finalizing that listing proposal.

WILDLIFE:

Highway overpasses help pronghorns avoid cars

Published: Thursday, October 18, 2012

A new project has placed wildlife overpasses over Wyoming's Highway 191, helping the state's pronghorns avoid collisions with cars during their annual migration.

For years, the animals -- which, until recently, outnumbered the state's human population -- would cross the highway on their path from the Upper Green River Basin to Grand Teton National Park, resulting in a number of accidents with cars.

Conservation groups, universities and state agencies such as the Wyoming Department of Transportation collaborated on the project. Researchers identified sections of the highway where pronghorns were likely to cross by outfitting 400 of the antelope-like animals with GPS collars. The move allowed scientists to track the pronghorns and map their migration.

The data were then turned over to engineers to construct the overpasses. Woven wire fences were installed along the highway to send the animals to the passage points. The overpasses themselves have features to mimic the natural migration trail, including sagebrush.

So far in its first year, the project has been a success.

"This really is a win-win situation for people and for wildlife," said Jon Beckmann, pronghorn project coordinator for the Wildlife Conservation Society. "The overpasses enhance connectivity for wildlife species and at the same time increase safety for the traveling public who don't want to hit large wildlife going 65 to 75 miles per hour" (Rachel Nuwer, New York Times, Oct. 17). -- JE

WILDLIFE:

Drought may thin out squirrel population next spring

Published: Thursday, October 18, 2012

The drought has left the squirrels of Iowa with a meager supply of acorns and walnuts this winter, which may mean fewer squirrels in the state next spring.

The dry weather cut into the acorn and walnut crop, the prime food source for squirrels, deer and turkeys, said Vince Evelsizer, a biologist for the Iowa Department of Natural Resources.

"There aren't a lot of acorns, but there are some walnuts," he said. "The wildlife are used to heavy and light years, and they will compete for other foods. But with a light food year and a bad winter, we might see a reduction in squirrel numbers."

It's the reverse of the situation in New England, where residents are fighting off a growing rodent population. This year's nut crop has resulted in a squirrel boom.

The animals have gnawed into trees across the region, including those at Clarence Boston's southern Vermont orchard.

"It's leaving me reeling," he said (Perry Beeman, Des Moines Register, Oct. 17). -- JE

ClimateWire -- Fri., October 19, 2012 -- Read the full edition

1. AFRICA: Clean energy deal lights up a power-hungry nation

JINJA, Uganda -- The path to Uganda's energy security begins 50 miles east of the capital, Kampala, with a left turn off the main highway and a scattering of chickens and goats to the safety of their roadside keeps. The diesel Toyota minivan groans 5 miles north up the Victoria Nile floodplain, passing the red-dirt villages of eastern Mukono District before arriving at a fenced compound high above the river. Here, under the watch of Ugandan national police, the new Bujagali Hydropower Plant is converting the Nile's powerful current into 250 megawatts of electricity, enough to provide 24/7 power to Kampala and a smattering of smaller cities and villages linked to the nation's power grid.

TODAY'S STORIES

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12. CITIES: Boulder County, Colo., draws up blueprint to fight climate change

EnergyWire -- Fri., October 19, 2012 -- Read the full edition

1. NATURAL GAS: While Utica Shale's early birds celebrate, others wait
CANTON, Ohio -- Ron's Workingman's Store had been a small, durable business here for nearly 75 years, serving eastern Ohio's industrial workers. And then Chesapeake Energy Corp. moved in across the street last year, as the Oklahoma firm made its foray into the Utica Shale gas development. "We created a great friendship, and a lot of their subcontractors came over here," said the store's purchasing manager, Lisa Nicodemo. Sales of fire-retardant clothing used in drilling operations spiked, along with business at the company's companion store, Wilkof Industrial Supply, handling industrial equipment and tools.

THIS MORNING'S STORIES

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